

Members present

Hon Andrew McGechan (President)
Dr Helena Catt (Chief Executive)

Dated: 12 June 2008

Decision Number: 2008-03

Initiated by

ELECTORAL COMMISSION

In relation to

**Annual return of party donations for 2007
THE REPUBLIC OF NEW ZEALAND PARTY**

Findings and Determination

The Republic of New Zealand Party's donation return for 2007 was filed after the due date. There was a reasonable excuse for the late filing therefore no offence was committed.

Failure to comply with section 214G(1) of the Electoral Act 1993 by failure to ensure the Electoral Commission received the annual return of party donations by 30 April 2008. No offence committed under section 214G(3) as there was reasonable excuse for the failure to comply.

This headnote does not form part of the decision.

Subject

Annual returns of party donations were required to be filed with the Electoral Commission by 30 April 2008. The Electoral Commission received an annual return of party donations from The Republic of New Zealand Party on 5 May 2008.

Issues raised

The Electoral Commission considered whether the return was received by 30 April 2008 and, if not, whether an offence had been committed.

Electoral Act 1993

Section 214G(1) of the Electoral Act (the Act) requires every secretary of a registered political party to ensure the Electoral Commission receives by 30 April a return of party donations received in the preceding calendar year.

Every party secretary who fails, without reasonable excuse, to comply with section 214G(1) commits an offence (section 214G(3)).

Comments from The Republic of New Zealand Party

The secretary of The Republic of New Zealand Party provided a written explanation of the reasons the return was filed late including the efforts the secretary and the treasurer had made to ensure the return would be filed on time and the delay in the auditor completing the audit, and that the completed return was eventually couriered on the morning of 2 May 2008.

Electoral Commission's Determination

The Electoral Commission has considered the requirements to provide returns of party donations under the Act along with the items listed as exhibits (below). It determined that the return was not received by 30 April 2008.

Section 214G(3) of the Act provides:

Every secretary of a political party registered under Part 4 who fails, without reasonable excuse, to comply with subsection(1) or subsection (2) commits an offence ...

It is settled law that the reasonableness of an excuse must be considered in light of the particular circumstances (see, for example, the case of *R v Hyde* (1990) 7 CRNZ 366).

In the view of the Electoral Commission the matters outlined by the party secretary in his letter and summarised above indicate that despite his best efforts there was a delay in the auditing process which was beyond his control, which under the circumstances constitutes a reasonable excuse for the failure to comply on this occasion and therefore no offence has been committed.

For the above reasons it is the view of the Electoral Commission that the secretary for The Republic of New Zealand Party did not commit an offence for the purposes of section 214G of the Electoral Finance Act 2007

Signed for and on behalf of the Electoral Commission



Dr Helena Catt
Chief Executive and Commissioner
New Zealand Electoral Commission

11 July 2008

Exhibits

The following items were received and considered by the Electoral Commission when it determined this matter:

- 1 The Republic of New Zealand Party annual return of party donations
- 2 Letter from Electoral Commission to the secretary of The Republic of New Zealand Party inviting comment
- 3 Letter from secretary of The Republic of New Zealand Party to the Electoral Commission